

CONFIDENTIALITY AND BUSINESS RELATIONSHIP/NON-COLLUSION REPRESENTATIONS

In connection with discussions and/or negotiations between the responding entity ("Bidder") and the applicable Cherokee Nation entity ("Company") (individually "Party" or collectively "Parties") regarding

PROJECT NAME: RFI Preferred Vendor Gifting Group

RFP NUMBER: 163420

Each Party agrees that any written information, drawings or data disclosed by the other Party as well as all information becoming known to either Party concerning the other Party's inventions, discoveries, improvements, methods, business plans, ventures, practices, enterprises, or operation, or any other information affecting the business operations of the other Party shall be deemed to be confidential and proprietary information owned by such Party, and shall be protected by the receiving Party in the same manner and with the same degree of care the receiving Party treats its own confidential or proprietary information ("Confidential Information"). The receiving Party agrees to and shall be fully responsible for all Confidential Information of the disclosing Party in the receiving Party's possession and the receiving Party shall promptly upon demand, return all such Confidential Information and reproductions therefrom to the disclosing Party or destroy the Confidential Information and certify such destruction to the disclosing Party. If either Party loses or makes an unauthorized disclosure of the other Party's Confidential Information, it shall notify such other Party immediately and use reasonable efforts to retrieve the lost or wrongfully disclosed Confidential Information.

Confidential Information shall not be disclosed, except to the extent required by law, to any third person or entity without the prior written consent of the disclosing Party other than to those directors, officers, employees, affiliates, agents or consultants with a need to know the Confidential Information in connection with the project referenced above. Except as permitted in the previous sentence, prior to disclosure to any such third person or entity, such third person or entity must have agreed in writing to treat the Confidential Information as confidential in the same manner as required of the receiving Party. The Parties shall use the Confidential Information only in connection with continuing discussions by the Parties concerning the Project, except as may otherwise be mutually agreed upon in writing.

Confidential Information shall be treated in the manner specified above until such time as such Confidential Information: (i) is otherwise available in the public domain; (ii) is established to have been lawfully known by the receiving Party prior to receipt of such Confidential Information from the disclosing Party or becomes known by the receiving Party through a third party not subject to the non-disclosure requirements of this Agreement; (iii) is developed by or on behalf of the receiving Party independent of any Confidential Information furnished by the disclosing Party under this Agreement or (iv) is required to be released by a valid law, regulation or court order, and sufficient notice is given by the receiving Party to the disclosing Party of any such requirement or request to permit the disclosing Party to seek an appropriate protective order or exemption from such requirement or request.

The receiving Party acknowledges that in the event of an unauthorized disclosure, the damages incurred by the disclosing Party may be difficult if not impossible to ascertain, and that the Disclosing Party may seek injunctive relief as well as monetary damages from the receiving Party. Neither the disclosure of Confidential Information, nor the ongoing discussions and correspondence between the receiving Party and the disclosing Party, shall constitute or imply a commitment or binding obligation between the parties or their respective affiliated companies.

Neither Party shall be: (a) responsible or liable for any business decisions made or inferences drawn by the other Party in reliance on this Agreement or in reliance on actions taken or disclosures made pursuant to this Agreement; or (b) liable to or through the other Party for amounts representing loss of profits, loss of business, or special, indirect, consequential, or punitive damages.

This Agreement shall be binding upon Company with regard to the Project as if executed by Company and shall become effective upon signature by Bidder ("Effective Date"). The Agreement shall continue in force until terminated by either Party, notice is provided by Company that Bidder was not the winning bidder, or until superseded by a subsequent non-disclosure or definitive agreement containing confidentiality provisions. The

obligations of the parties shall survive and continue beyond the expiration or termination of the Agreement for a period of two (2) years with regard to Confidential Information.

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY OR PRESENTED IN THE BID PROPOSAL DOCUMENTATION, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER WITH RESPECT TO ANY INFORMATION DISCLOSED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AGAINST INFRINGEMENT.

The Parties acknowledge that this Agreement does not restrict the ability either to engage in their respective businesses, nor does it limit either Party's use or application of any information or knowledge acquired independently of the other without a breach of this Agreement in the course of such Party's business.

The Parties agree that this document may be electronically signed and that signatures appearing on this document are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

SIGNED: _____

TITLE: _____

DATE: _____

